

Message Text

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ACTION SS-30

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FM AMEMBASSY GEORGETOWN

TO SECSTATE WASHDC IMMEDIATE 0105

C O N F I D E N T I A L GEORGETOWN 1372

EXDIS

DEPARTMENT PASS OPIC

E.O. 11652: GDS

TAGS: EMIN, GY, PFOR

SUBJECT: REYNOLDS GUYANA

REF: GEORGETOWN 1362

1. SUMMARY. AMBASSADOR, DCM AND OPIC REP MET WITH ROBERTS, WAGNER AND GALEA OF RYNOLDS AT RESIDENCE TUESDAY EVENING TO REVIEW DAY'S EVENTS. REYNOLDS TEAM EVIDENCED A CERTAIN PASSIVITY, TO WHICH LIMITATIONS OF AUTHORITY, AGRESSIVENESS AND IMAGINATION MAY CONTRIBUTE IN VARYING DEGREES. AFTER LENGTHY REVIEW OF IMPLICATIONS OF GOG DEMANDS, REYNOLDS TEAM WAS COUNSELLED TO TRY TO SIDESTEP GOG CALL FOR A DEFINITIVE RESPONSE AT MEETING SCHEDULED FOR 9:30 AM TODAY AND TO PRESENT REYNOLDS POSITION WITH ATTENTION TO BOTH PUBLIC RELATIONS AND LEGAL IMPACT OF RECORD, AND IN A MANNER TO PRESERVE ANY REMAINING CHANCE FOR NEGOTIATED ARRANGEMENT ALLOWING CONTINUED REYNOLDS OPERATIONS IN GUYANA.

2. REYNOLDS TEAM REVIEW OF GOG REVENUE PROPOSAL WAS CONSISTENT WITH PRELIMINARY REPORT GIVEN TO OPIC REP EARLIER IN AFTERNOON (REFTEL). ROBERTS HAD TALKED TO RICHMOND BY PHONE, BUT GAVE NO INDICATION OF HAVING
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RECEIVED ANY SPECIFIC INSTRUCTIONS ON RESPONSE TO

GOG. REYNOLDS TEAM APPEARED TO HAVE NO CLEAR NOTION OF WHAT KIND OF RESPONSE IT WOULD MAKE AT WEDNESDAY MEETING, BUT APPEARED TO FEEL CONSTRAINED BY JACK'S CALL FOR A CLEAR "YEA" OR "NAY", AND ROBERTS REPEATEDLY ALLUDED TO FACT THAT JACK HAD MADE IT CLEAR THAT A COUNTERPROPOSAL BY REYNOLDS ON REVENUE LEVELS WOULD NOT BE ENTERTAINED. ROBERTS SAID REYNOLDS LOCAL ATTORNEY LLOYD LUCKHOO HAD EARLIER IN DAY BEEN PLANNING A LETTER RESPONSE THAT WOULD COVER LEGAL OBJECTIONS TO GOG DEMANDS, STRESSING RETROACTIVITY ASPECT WHICH LUCKHOO FEELS IS PARTICULARLY VULNERABLE. LUCKHOO, HOWEVER, WAS SAID TO HAVE PUT THIS EFFORT ASIDE WITH THE OBSERVATION THAT IT WOULD ONLY LEAD TO NEW LEGISLATION FASHIONED TO OVERRIDE POINTS RAISED. GIST OF REYNOLDS TEAM'S OBSERVATIONS WAS THAT THEY PERCEIVED NO ALTERNATIVE TO SIMPLY CITING THE IMPOSSIBILITY OF REYNOLDS AGREEING TO GOG DEMANDS.

3. SCENARIO PERCEIVED BY LUCKHOO AND ROBERTS HAD QUICK END TO "NEGOTIATIONS" FOLLOWED BY SPEEDY ENACTMENT REVENUE LEGISLATION, IMMEDIATE DEMAND FOR RETROACTIVE PORTION AND SEIZURE OF PROPERTY FOLLOWING NON-PAYMENT. REYNOLDS TEAM REFERRED TO POSSIBILITY THAT GOG MIGHT PROCEED BY APPOINTING A CONTROLLER PURSUANT TO MINERALS ACT, 1971. (OPIC REP REGARDS PROCEEDING UNDER EXISTING TAX ENFORCEMENT LAWS MORE LIKELY, NOTING TAX CASE EXCEPTION TO COMPENSATION PROVISIONS OF GUYANA CONSTITUTION ARTICLE 8).

4. AMBASSADOR REPORTED PARTIALLY ON HIS MEETING EARLIER IN THE EVENING WITH FOREIGN MINISTER (GEORGETOWN 1371)

5. REYNOLDS TEAM WAS URGED TO HANDLE RESPONSE IN SUCH A WAY AS TO AVOID ABRUPT CLOSE OF TALKS BEFORE THERE WAS TIME FOR REACTION TO USG EFFORTS TO MODERATE GOG POSITION OR FOR REYNOLDS TOP MANAGEMENT TO PLAY ITS ROLE IN TRYING TO FIND A SOLUTION. ROBERTS REPEATEDLY INTERPRETED OUR REMARKS AS SUGGESTING THAT HE GIVE GOG A COUNTERPROPOSAL
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REVENUE FIGURE, AND WE ASSURED HIM THAT THIS WAS NOT THE CASE. RATHER, RESPONSE SHOULD MAKE PUBLIC RELATIONS RECORD (E.G., REYNOLDS WILLINGNESS TO INCREASE GOG REVENUES WITHIN AN ECONOMIC RANGE) AND LEGAL RECORD (E.G., REFERENCE TO RETROACTIVITY AND DISCRIMINATION) IN A LOW KEY, NON-ANTAGONISTIC MANNER.

6. OPIC REP ASKED REYNOLDS TO GIVE FURTHER ATTENTION TO POSSIBILITY OF LIMITING PROPOSED NEW LEVY TO THE INTEGRATED PORTION OF THE REYNOLDS GUYANA OPERATION, I.E., THE METALURGICAL BAUXITE SHIPPED TO REYNOLDS ARKANSAS FACILITIES, AND INSISTING ON PARITY OF TREATMENT WITH GUYBAU WITH RESPECT TO CALCINED AND CHEMICAL GRADE BAUXITE WHICH BOTH SELL TO THIRD PARTIES. THIS WOULD HAVE THE EFFECT OF LIMITING THE "JAMAICA PRECEDENT" TO THE COMPARABLE PART OF THE REYNOLDS OPERATION AND EMPHASIZE THE FLIMSY ECONOMIC AND LEGAL/ EQUITABLE BASIS FOR TAX ACTION AGAINST THE PRIVATE COMPETITOR OF A GOVERNMENT OWNED OPERATION. ROBERTS ENTERTAINED THIS IDEA, BUT NOTED THAT PROPOSED \$17.50/LDT LEVY WOULD MAKE METALURGICAL BAUXITE FROM GUYANA UNECONOMIC FOR REYNOLDS OWN OPERATIONS. ROBERTS SAID THE HIGH QUALITY OF GUYANA BAUXITE WOULD WARRANT PAYING ABOUT \$2 PER TON MORE THAN FOR JAMAICA BAUXITE. FIGURES AVAILABLE TO US SUGGEST HISTORIC TRANSFER PRICING OF GUYANA BAUXITE TO HAVE BEEN PERHAPS 30-40 PERCENT HIGHER THAN JAMAICA AVERAGE, LEAVING POSSIBILITY THAT NEW LEVIES IN RANGE OF GOG DEMANDS LIMITED TO METAL GRADE MAY BE TOLERABLE TO SAME EXTENT AS NEW JAMAICAN LEVIES-- WHATEVER THAT MAY BE.

7. AMBASSADOR SUMMED UP MAIN POINTS OF COUNSEL OFFERED, NOTING THAT HE HAD MADE POINT ABOUT TAX DISCRIMINATION IN HIS MEETING WITH FOREIGN MINISTER.

8. SUBSEQUENTLY ROBERTS OUTLINED HIS PROPOSED RESPONSE IN AN AUG. 7 BREAKFAST MEETING WITH OPIC REP. THE SUGGESTED THEMES

WERE ALL THERE--WILLINGNESS TO PAY MORE, INABILITY TO PROVIDE
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IMMEDIATE RESPONSE, DISCRIMINATION AND RETROACTIVITY,
PLUS REFERENCE TO REVENUE DEMANDS FOR YEAR EXCEEDING
NET FIXED ASSET VALUE OF ENTERPRISE.

9. GUYANA BAUXITE TO ALUMINUM CONVERSION FIGURE
REPORTED REFTEL PARA 2 SHOULD BE 3.9 TO ONE.

10. ADD TO REPORT OF FIRST MEETING AUGUST 6, THAT WHEN
ROBERTS ASKED WHAT DURATION OF NEW TAX ARRANGEMENT
WOULD BE JACK INDICATED HE WAS NOT IN A POSITION TO
RESPOND. KREBS

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